

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

E. JEAN CARROLL,

*Plaintiff,*

v.

DONALD J. TRUMP, in his personal capacity,

*Defendant.*

No. 20 Civ. 7311 (LAK) (JLC)

**JOINT PRETRIAL ORDER**

The parties having conferred among themselves and with the Court pursuant to Fed. R. Civ. P. 16, the following statements, directions, and agreements are adopted as the Pretrial Order herein.

**I. NATURE OF THE CASE**

**A. Plaintiff's Proposed Statement of the Case**

In the spring of 1996, Plaintiff E. Jean Carroll, a journalist, writer, and advice columnist, ran into Defendant Donald J. Trump at the Bergdorf Goodman department store in Manhattan. What started out as playful banter took a dark turn when Trump seized Carroll, forced her up against a dressing room wall, pinned her in place with his shoulder, and sexually assaulted her. Afterwards, Carroll blamed herself for what had happened, and because of her embarrassment, shame, and fear of what would happen if she spoke out, she only told two friends about the assault and swore them at the time to secrecy. Things changed in 2017 while on a road trip interviewing women for a book she planned to write about their experiences with the men in their lives. Carroll decided to include in her book several of her own negative experiences with men, including Trump's attack many years before. Carroll's book was published in 2019, and in advance of its

release, on June 21, 2019, *New York Magazine* published an excerpt containing, among other things, Carroll's account of being sexually assaulted by Trump.

Trump responded to that excerpt by publicly, falsely, and maliciously smearing Carroll's reputation. On June 21 and 22, 2019, Trump denied that he assaulted Carroll and insisted they had never met. He accused Carroll of lying about the sexual assault to make money, to increase book sales, or to carry out a political agenda. Later that week, he even maliciously insulted Carroll's physical appearance, implying that he could not have attacked her because "she's not my type"—in other words, that Carroll was too unattractive for him to have sexually assaulted. Trump made these statements knowing they were false. After Trump's statements, Carroll was barraged with social media posts, messages, and emails from people repeating what he said—calling her a liar and telling her that she was too ugly to sexually assault. Some even threatened her life. On November 4, 2019, Carroll filed this lawsuit, alleging that Trump had defamed her when he made his statements about her in June 2019.

Three years later, on October 12, 2022, while this lawsuit was still pending, Trump repeated his defamatory statements about Carroll, again denying the assault and claiming that she made up her story to sell her book. On November 24, 2022, Carroll filed a second lawsuit against Trump, bringing a defamation claim based on Trump's October 2022 statement as well as a battery claim that had been revived by the New York Adult Survivors Act. *See Carroll v. Trump*, No. 22 Civ. 10016 (S.D.N.Y.) ("*Carroll II*").

Trial in *Carroll II* began on April 25, 2023, and over the next two weeks, a nine-person jury heard evidence and testimony from eleven witnesses. Carroll presented testimony from nine fact witnesses and two expert witnesses to support her sexual battery and defamation claims. Trump, for his part, chose not to call any witnesses, not to appear at the trial, and not to testify in

his own defense. Instead, the jury heard 45 minutes of prerecorded testimony from a deposition taken of Trump in October 2022, parts of which were presented by each side.

Carroll testified for a full day on direct examination and for nearly two full days on cross-examination. At trial, she testified that she ran into Trump one Thursday evening in the spring of 1996 at the 58th Street entrance of Bergdorf Goodman. Trump recognized Carroll, who testified that she had previously met Trump at a party. She presented a photograph from that party to the jury, showing herself, Trump, and their spouses laughing together. And she testified that in the spring of 1996, Carroll had her own advice column and daily TV show and was easily recognized. She testified that Trump, calling her the “advice lady,” asked her to help him pick out a gift for a “girl.” Carroll obliged. Carroll testified that, after looking at hats and handbags together on the ground floor, Trump eventually suggested that they go to the lingerie department on the sixth floor. She testified that there was no one there when they arrived. The two came across a bodysuit on top of a glass display case, and after some joking about who should try it on, Trump took Carroll’s arm and led her toward the dressing room, which was unlocked.

Carroll testified that immediately after she entered the dressing room, Trump slammed the door and shoved her up against the wall. Her head hit the wall, and she pushed him back, but he thrust her back against the wall, banging her head again. She testified that Trump then put his shoulder against her and held her against the wall with his weight. He initially pressed his mouth on her mouth, then he leaned down and pulled down her tights, while she continued to try to push him off. She testified that she felt him shove his fingers into her vagina, which was extremely painful, and then insert his penis. Carroll was soon able to get her knee up high enough to push him off. She then fled the store onto Fifth Avenue.

When Carroll made it out of the store onto the street, she immediately called her friend, author Lisa Birnbach, and told her what had just happened. She testified that Lisa told her she had been raped and that she should go to the police. Carroll also testified that two days later, she told a close friend, TV anchor Carol Martin, who told her to do nothing because Trump had 200 lawyers and would “bury” her. Carroll testified that, embarrassed and ashamed, she did not go to the police or tell anyone else what had happened for over twenty years. Then, on June 21, 2019, *New York Magazine* published an excerpt from her forthcoming book that included a description of her encounter with Trump. Carroll testified how over the next several days, Trump responded to her allegations with a series of brutal statements, denying her allegations, attacking her motives for coming forward, and stating that she was “not [his] type.” She also testified how several years later, on October 12, 2022, Trump repeated all his defamatory statements about Carroll on the social media platform, Truth Social. Carroll testified how Trump’s traumatic attack negatively impacted her for the rest of her life, how his repeated statements destroyed her reputation, and how the public backlash, after Trump defamed her, was swift and brutal.

Carroll called ten witnesses to support her case, including Lisa Birnbach and Carol Martin, both of whom testified that Carroll had told them she had been sexually assaulted by Trump in the minutes and days following the attack. Two witnesses who were employees of Bergdorf Goodman in the mid-1990s corroborated Carroll’s description of the layout and atmosphere of the store at that time. Two women who had been sexually assaulted by Trump, one in 1978 and the other in 2005, also testified. Both came forward publicly after they saw Trump claim during the 2016 presidential campaign that he had never kissed or groped a woman without her consent. They also testified that, after they came forward, Trump made statements about them that were similar in nature to those he made about Carroll in 2019, saying they were lying and insulting their physical

appearance. Carroll's sister, Cande Carroll, testified that she and Carroll had been raised never to speak to anyone about things like sexual assault, and instead to always present a positive attitude to the rest of the world. Roberta Myers, the former editor-in-chief of *Elle* and Carroll's former boss, testified about Carroll's reputation for integrity as a journalist as well as her popularity as a columnist.

Carroll also called two experts. Dr. Leslie Lebowitz, a clinical psychologist and expert on trauma, testified that Carroll experiences symptoms that are consistent with her account of being sexually assaulted and that it was not abnormal for a woman who was assaulted not to speak about it for years. Dr. Ashlee Humphreys, a Professor at Northwestern University, testified about the amount of money it would take to help repair Carroll's reputation in the public sphere from the damage caused by the statement Trump made about Carroll in October 2022.

Trump did not present any witnesses or testify in his own defense. The parties showed a video of sworn testimony Trump gave during a deposition, in which he confirmed the accuracy of the statements he made about Carroll in June 2019 and October 2022.

On May 9, 2023, after deliberating less than three hours, the jury unanimously held Trump liable for battery based on a finding that he had sexually abused Carroll. In addition, the jury unanimously held Trump liable for defamation based on his October 2022 statement. The jury awarded Carroll a total of \$5 million in compensatory and punitive damages.

As a result of that verdict, the jury in this trial will be required to accept as true that Trump was at Bergdorf Goodman in 1996, that he sexually abused Carroll there, and that she did not make the story up. The jury will be told that it should assume that Trump's June 21 and 22, 2019 statements were false, defamatory, and made with actual malice, meaning Trump knew his statements were false or acted in reckless disregard of whether or not they were true. Trial in this

action is therefore limited to the question of damages from Trump's defamatory statements in June 2019. Carroll seeks compensatory damages for injury to her reputation, humiliation, and mental anguish in her public and private life, and punitive damages to punish Trump for acting maliciously and to deter Trump and others from engaging in defamation of Carroll again.

**B. Defendant's Proposed Statement of the Case**

On June 21, 2019, *New York* magazine published an excerpt from Plaintiff's upcoming book in which she alleged that Defendant raped her in a Bergdorf Goodman during an unspecified time in the mid 1990's. Defendant, who at the time was the sitting President of the United States, issued three statements dated June 21, 22, and 24, 2019, rebutting Plaintiff's allegation. Plaintiff now seeks compensatory and punitive damages for the statements issued on June 21 and June 24 (the "Statements"). Pursuant to the Court's Order dated September 6, 2023, this trial has been limited to the issue of damages only.

Contrary to Plaintiff's contention, she did not sustain any reputational or economic harm as a result of the Statements; even if she did, any harm incurred was *de minimis* and the result of Plaintiff's own course of conduct.

Furthermore, Defendant made the Statements within the "outer perimeter of his official responsibility" and he is therefore immune from civil liability under the doctrine of presidential immunity. *Nixon v. Fitzgerald*, 457 U.S. 731, 756 (1982) (cleaned up).

Accordingly, Defendant respectfully demands judgment dismissing the Complaint in its entirety together with costs, disbursements, and all other relief this Court deems just and proper.

In addition, Defendant expressly reserves the right to amend and/or supplement his responses to this Pretrial Order pending adjudication of his motion to substitute a new rebuttal

expert filed by Defendant on November 2, 2023, *See* ECF 221, and any subsequent evidentiary rulings issued by the Court prior to trial.

## **II. JURY/NON-JURY**

Carroll and Trump both request that this action be tried by jury. Carroll estimates that the trial will take between 2 and 3 days. Trump estimates that the trial will take between 3 and 5 days.

## **III. STIPULATED FACTS**

Carroll and Trump state that in accordance with the Court's Order dated September 6, 2023, "[t]rial in this case shall be limited to the issue of damages only." ECF 214 at 4. The parties are open to stipulating as to the underlying facts so that they can be conveyed to the jury in the form of stipulations, by means of a preliminary instruction or in whatever other manner the Court deems appropriate.

## **IV. EXHIBITS**

No exhibit not listed below may be used at trial except (a) for cross-examination purposes, (b) by plaintiff on rebuttal, or (c) if good cause for its exclusion from the pretrial order is shown.

### **A. Plaintiff's Exhibits**

The following is a list of exhibits Plaintiff intends to offer in her case-in-chief:

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-1	Trump's June 21, 2019 statement (Laura Litvan tweet) (Defendant Dep. Ex. 20)		Yes	Yes
PX-2	Trump's June 22, 2019 statement, as redacted (transcript of remarks before Marine One departure) (MP-001795), as redacted (Defendant Dep. Ex. 21)		Yes	Yes

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-3	Trump's June 24, 2019 statement (article from <i>The Hill</i> : Jordan Fabian and Saagar Enjeti, <i>Trump Vehemently Denies E. Jean Carroll Allegation, Says "She's Not My Type"</i> ) (Defendant Dep. Ex. 22)	FRE 401, 403, 404	Yes	No
PX-4	Trump's October 12, 2022 statement (Truth Social post) (Defendant Dep. Ex. 28)	FRE 401, 403, 404	Yes	No
PX-5	E. Jean Carroll's book: <i>What Do We Need Men For? A Modest Proposal</i> (2019), as redacted (Defendant Dep. Ex. 19)	FRE 401, 403, 801, and 802	Yes	No
PX-6	<i>New York Magazine</i> article: <i>Donald Trump Assaulted Me in a Bergdorf Goodman Dressing Room 23 Years Ago. But He's Not Alone on the List of Awful Men in My Life</i> (June 21, 2019) (online version), as redacted (Plaintiff Dep. Ex. 4)	FRE 401, 403, 801, and 802	Yes	No
PX-7	<i>New York Magazine</i> article: <i>Donald Trump Assaulted Me in a Bergdorf Goodman Dressing Room 23 Years Ago. But He's Not Alone on the List of Awful Men in My Life</i> (June 24, 2019) (print version), as redacted (CARROLL_024378)	FRE 401, 403, 801, and 802	Yes	No
PX-8	Contract between E. Jean Carroll and Hearst Magazine Media, dated January 28, 2019, as redacted (CARROLL_025665)	FRE 401, 403	Yes	No



<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-9	Photo of E. Jean Carroll, John Johnson, Donald J. Trump, and Ivana Trump (CARROLL_030211) (Defendant Dep. Ex. 23; Plaintiff Dep. Ex. 2)	FRE 401, 403	Yes	No
PX-10	Video recording of the deposition of Donald J. Trump dated October 19, 2022 (portions to be designated)	Depending on the portions to be designated, Defendant may object under FRE 106, 401, 403, 404	Yes	No
PX-11	Video recording of the deposition of Robbie Myers dated October 12, 2022 (portions to be designated)	Depending on the portions to be designated, Defendant may object under FRE 106, 401, 403,	Yes	No
PX-12	Transcript of the deposition of Robbie Myers dated October 12, 2022 (portions to be designated)	Depending on the portions to be designated, Defendant may object under FRE 106, 401, 403	Yes	No
PX-13	Transcript of the deposition of Donald J. Trump dated October 19, 2022 (portions to be designated)	Depending on the portions to be designated, Defendant may object under FRE 106, 401, 403, 404	Yes	No

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-14	Prof. Ashlee Humphreys demonstrative exhibit	FRE 401, 403, 702, 703, 801, and 802; FRCP 26(a)(2)(D)(ii); <i>Daubert v. Merrell Dow Pharms., Inc.</i> , 509 U.S. 579, 113 S. Ct. 2786 (1993)	No	No
PX-15	Transcript of the deposition of Natasha Stoynoff dated October 13, 2022	FRE 403, 404	Yes	No
PX-16	Transcript of the deposition of Jessica Leeds dated October 13, 2022	FRE 401, 403, 404 and depending on the portions to be designated, Defendant may object under FRE 106	Yes	No
PX-17	Video recording of the deposition of Natasha Stoynoff dated October 13, 2022	FRE 401, 403, 404 and depending on the portions to be designated, Defendant may object under FRE 106	Yes	No
PX-18	Video recording of the deposition of Jessica Leeds dated October 13, 2022	FRE 401, 403, 404 and depending on the portions to be designated, Defendant may object under FRE 106	Yes	No

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-19	September 26, 2016 Presidential debate video (Stoynoff Dep. Ex. 3; Leeds Dep. Ex. 1)	FRE 401, 403, 404	Yes	No
PX-20	October 13, 2016 West Palm Beach campaign rally video (14:28-15:32) (Defendant Dep. Ex. 40)	FRE 401, 403, 404	Yes	No
PX-21	October 13, 2016 West Palm Beach campaign rally video (17:32-17:57)	FRE 401, 403, 404	Yes	No
PX-22	October 13, 2016 West Palm Beach campaign rally video (17:58-19:23) (Defendant Dep. Ex. 36)	FRE 401, 403, 404	Yes	No
PX-23	October 14, 2016 Greensboro, NC campaign rally video (17:10-18:30)	FRE 401, 403, 404	Yes	No
PX-24	October 14, 2016 Greensboro, NC campaign rally video (24:34-25:06) (Defendant Dep. Ex. 38)	FRE 401, 403, 404	Yes	No
PX-25	October 21, 2016 Gettysburg, PA campaign rally video (9:44-10:06)	FRE 401, 403, 404	Yes	No
PX-26	Access Hollywood video recording of Donald J. Trump speaking to Billy Bush in September 2005 (Defendant Dep. Ex. 35)	FRE 401, 403, 404	Yes	No
PX-27	<i>People</i> article: Natasha Stoynoff, <i>Happy Anniversary</i> (Jan. 16, 2006)	FRE 401, 403, 404, 801, 802	Yes	No

Exhibit No.	Document Description	Defendant's Objections	Stipulation to Authenticity	Stipulation to Admissibility
PX-28	Photo of E. Jean Carroll eating at a restaurant, for the "Ask E. Jean" column (CARROLL_030242)		Yes	Yes
PX-29	Photo of E. Jean Carroll looking out a window, for the "Ask E. Jean" column (CARROLL_030229)		Yes	Yes
PX-30	Photo of E. Jean Carroll in 1998 (CARROLL_030201)		Yes	Yes
PX-31	Photo of Natasha Stoynoff with Donald Trump and others at Mar-a-Lago in December 2005	FRE 401, 403, 404	Yes	No
PX-32	Photo of Jessica Leeds in 1978	FRE 401, 403, 404	Yes	No
PX-33	Television graphic for <i>Ask E. Jean</i> Show (1995)		Yes	Yes
PX-34	Tweets @ejeancarroll by @typonow and @kittywaymo (June 21, 2019) (CARROLL_030264)	FRE 401, 403, 801, 802	No	No
PX-35	Tweets @ejeancarroll by @battlebornVT, @nycfla2, @MattSkyFather, @jillybean0313, @ProfSchlitzo7, @TrumpVoter9 (June 21 and 22, 2019) (CARROLL_030256)	FRE 401, 403, 801, 802	No	No
PX-36	Tweet @ejeancarroll by @rightside4me (June 22, 2019) (CARROLL_030263)	FRE 401, 403, 801, 802	No	No
PX-37	Tweet @ejeancarroll by @theboydoutdoors (June 28, 2019) (CARROLL_030251)	FRE 401, 403, 801, 802	No	No

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-38	Email to e.jean@askejean.com from marianneofmaui@aol.com (June 21, 2019) (CARROLL_024499)	FRE 401, 403, 801, 802	No	No
PX-39	Email to ejean@askejean.com from Anonymous (June 22, 2019) (CARROLL_024554)	FRE 401, 403, 801, 802	No	No
PX-40	Email to e.jean@askejean.com from sports_justice@gmx.com (June 22, 2019) (CARROLL_024559)	FRE 401, 403, 801, 802	No	No
PX-41	Email to e.jean@askejean.com from aaarocket37@gmail.com (June 22, 2019) (CARROLL_024562)	FRE 401, 403, 801, 802	No	No
PX-42	Email to e.jean@askejean.com from meg814@msn.com (June 22, 2019) (CARROLL_024640)	FRE 401, 403, 801, 802	No	No
PX-43	Email to ejeancarroll@gmail.com from lahey.s@shaw.ca (June 22, 2019) (CARROLL_024641)	FRE 401, 403, 801, 802	No	No
PX-44	Email to e.jean@askejean.com from dwdwdw10@hotmail.com (June 23, 2019) (CARROLL_024684)	FRE 401, 403, 801, 802	No	No
PX-45	Email to comment@askejean.com from coupclan1962@gmail.com (June 23, 2019) (CARROLL_024796)	FRE 401, 403, 801, 802	No	No
PX-46	Email to e.jean@askejean.com from rob702@gmx.com (June 25, 2019) (CARROLL_024944)	FRE 401, 403, 801, 802	No	No

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-47	Email to e.jean@askejean.com; dori.weintraub@stmartins.com; slazin@aevitascreative.com; and awarren@aevitascreative.com from sports_justice@gmx.com (June 25, 2019) (CARROLL_024974)	FRE 401, 403, 801, 802	No	No
PX-48	Email to comment@askejean.com from zanderzax407@gmail.com (June 27, 2019) (CARROLL_025080)	FRE 401, 403, 801, 802	No	No
PX-49	Email to ejean@askejean.com from Anonymous (Jan. 4, 2020) (CARROLL_026329)	FRE 401, 403, 801, 802	No	No
PX-50	Email to e.jean@askejean.com from scottie7389@outlook.com (Jan. 10, 2020) (CARROLL_026331)	FRE 401, 403, 801, 802	No	No
PX-51	Email to e.jean@askejean.com from bobruberry@hotmail.com (Sept. 8, 2020) (CARROLL_028058)	FRE 401, 403, 801, 802	No	No
PX-52	Email notification of Tweet @ejeancarroll by @tschuler (Sept. 9, 2020) (CARROLL_028063)	FRE 401, 403, 801, 802	No	No
PX-53	Email to ejeancarroll@gmail.com from samlupowitz@aol.com (Sept. 9, 2020) (CARROLL_028069)	FRE 401, 403, 801, 802	No	No

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-54	Email to ejeancarroll@gmail.com from lsprywa@gmail.com (Sept. 9, 2020) (CARROLL_028115)	FRE 401, 403, 801, 802	No	No
PX-55	Facebook message from Joseph Rowland to E. Jean Carroll (Oct. 21, 2020) (CARROLL_028549)	FRE 401, 403, 801, 802	No	No
PX-56	Email to e.jean@askejean.com from nwrsupertech@yahoo.com (Oct. 27, 2020) (CARROLL_028588)	FRE 401, 403, 801, 802	No	No
PX-57	Email to e.jean@askejean.com from kuke@dakotacom.net (June 8, 2021) (CARROLL_029331)	FRE 401, 403, 801, 802	No	No
PX-58	Facebook message from Isaac Blanchard to E. Jean Carroll (Mar. 11, 2022) (CARROLL_029774)	FRE 401, 403, 801, 802	No	No
PX-59	Facebook message from Michael Drury to E. Jean Carroll (June 21, 2019) (CARROLL_030118)	FRE 401, 403, 801, 802	No	No
PX-60	Facebook messages from Brian Flowers to E. Jean Carroll (June 22, 2019) (CARROLL_030119)	FRE 401, 403, 801, 802	No	No
PX-61	Facebook messages from VJ Zimmerman to E. Jean Carroll (June 22, 2019) (CARROLL_030120)	FRE 401, 403, 801, 802	No	No

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-62	Facebook message from Renee Shipley to E. Jean Carroll (June 22, 2019) (CARROLL_030121)	FRE 401, 403, 801, 802	No	No
PX-63	Facebook message from Steve Barnet to E. Jean Carroll (June 22, 2019) (CARROLL_030122)	FRE 401, 403, 801, 802	No	No
PX-64	Facebook message from Patrick Harris to E. Jean Carroll (June 22, 2019) (CARROLL_030123)	FRE 401, 403, 801, 802	No	No
PX-65	Facebook message from Karen Marie Jacobsen Strunk to E. Jean Carroll (June 23, 2019) (CARROLL_030124)	FRE 401, 403, 801, 802	No	No
PX-66	Facebook messages from Kathleen Woolard to E. Jean Carroll (June 22, 2019; July 24, 2019) (CARROLL_030126)	FRE 401, 403, 801, 802	No	No
PX-67	Facebook message from Tim Wolffis to E. Jean Carroll (June 23, 2019) (CARROLL_030127)	FRE 401, 403, 801, 802	No	No
PX-68	Facebook messages from Nellie Marsell to E. Jean Carroll (June 23, 2019) (CARROLL_030128)	FRE 401, 403, 801, 802	No	No



<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-69	Facebook message from David Alan to E. Jean Carroll (June 24, 2019) (CARROLL_030131)	FRE 401, 403, 801, 802	No	No
PX-70	Facebook messages from Jeff Tucker to E. Jean Carroll (June 24, 2019; Sept. 8, 2020) (CARROLL_030133)	FRE 401, 403, 801, 802	No	No
PX-71	Facebook message from Patrick McDowell to E. Jean Carroll (June 24, 2019) (CARROLL_030134)	FRE 401, 403, 801, 802	No	No
PX-72	Facebook message from Norm Sargent to E. Jean Carroll (June 24, 2019) (CARROLL_030136)	FRE 401, 403, 801, 802	No	No
PX-73	Facebook message from Jamie Lynn Ockerman to E. Jean Carroll (June 25, 2019) (CARROLL_030137)	FRE 401, 403, 801, 802	No	No
PX-74	Facebook message from S.K. Bernethy to E. Jean Carroll (June 25, 2019) (CARROLL_030138)	FRE 401, 403, 801, 802	No	No
PX-75	Facebook message from Michael Hartman to E. Jean Carroll (June 26, 2019) (CARROLL_030142)	FRE 401, 403, 801, 802	No	No

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-76	Facebook messages from Bill Kilby to E. Jean Carroll (June 27, 2019; Dec. 25, 2019) (CARROLL_030143)	FRE 401, 403, 801, 802	No	No
PX-77	Facebook message from Ken Nelson to E. Jean Carroll (June 27, 2019) (CARROLL_030145)	FRE 401, 403, 801, 802	No	No
PX-78	Facebook message from Memphis Raine to E. Jean Carroll (July 4, 2019) (CARROLL_030147)	FRE 401, 403, 801, 802	No	No
PX-79	Facebook message from Joanie Petersen to E. Jean Carroll (Nov. 8, 2019) (CARROLL_030150)	FRE 401, 403, 801, 802	No	No
PX-80	Facebook message from Larry Thomas to E. Jean Carroll (Jan. 31, 2020) (CARROLL_030151)	FRE 401, 403, 801, 802	No	No
PX-81	Facebook message from Bonnie Elizabeth Daily to E. Jean Carroll (Jan. 31, 2020) (CARROLL_030153)	FRE 401, 403, 801, 802	No	No
PX-82	Facebook messages from Ruby Shankles to E. Jean Carroll (Feb. 18, 2020) (CARROLL_030154)	FRE 401, 403, 801, 802	No	No

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PX-83	Facebook message from Jen Burton to E. Jean Carroll (Oct. 27, 2020) (CARROLL_030155)	FRE 401, 403, 801, 802	No	No
PX-84	Facebook message from Stuart Campbell to E. Jean Carroll (Oct. 27, 2020) (CARROLL_030156)	FRE 401, 403, 801, 802	No	No
PX-85	Tweet @ejeancarroll by @RunnerMo24 (June 21, 2019, 9:29 p.m.)	FRE 401, 403, 801, 802	No	No
PX-86	Tweet @ejeancarroll by @firethornranch (June 21, 2019, 10:14 p.m.)	FRE 401, 403, 801, 802	No	No
PX-87	Tweet by @floccinaucini1 (June 21, 2019, 10:24 p.m.)	FRE 401, 403, 801, 802	No	No
PX-88	Tweet @ShelbyTalcott and @DailyCaller by @PapaNeanderthal (June 22, 2019, 6:02 p.m.)	FRE 401, 403, 801, 802	No	No
PX-89	Tweet @nytimes by @mikeprobst5 (Sept. 9, 2020, 2:22 p.m.)	FRE 401, 403, 801, 802	No	No
PX-90	Tweet @nytimes by @DizZieNewz (Sept. 9, 2020, 5:08 p.m.)	FRE 401, 403, 801, 802	No	No
PX-91	Tweet @nytimes by @interruptedgirl (Sept. 12, 2020, 10:03 p.m.)	FRE 401, 403, 801, 802	No	No
PX-92	Tweet @dcexaminer by @BruceWe77516428 (Sept. 16, 2021, 1:19 a.m.)	FRE 401, 403, 801, 802	No	No

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-93	Tweet @nytimes by @LukeLondonJr1 (Sept. 21, 2022, 6:06 a.m.)	FRE 401, 403, 801, 802	No	No
PX-94	Tweet @ejeancarroll by @Angerisinnate (Sept. 21, 2022, 4:23 p.m.)	FRE 401, 403, 801, 802	No	No
PX-95	Tweet @ejeancarroll by @pinochet_pilot (Sept. 6, 2022, 12:26 a.m.)	FRE 401, 403, 801, 802	No	No
PX-96	Truth Social post by @realDonaldTrump (May 9, 2023, 3:29 p.m.)	FRE 401, 403, 404	Yes	No
PX-97	Truth Social video post by @realDonaldTrump (May 9, 2023, 9:00 p.m.)	FRE 401, 403, 404	Yes	No
PX-98	Truth Social post by @realDonaldTrump (May 10, 2023, 8:59 a.m.)	FRE 401, 403, 404	Yes	No
PX-99	Video of May 10, 2023 CNN Townhall with Donald J. Trump	FRE 401, 403, 404	Yes	No
PX-100	Transcript of May 10, 2023 CNN Townhall with Donald J. Trump	FRE 401, 403, 404	Yes	No
PX-101	Truth Social post by @realDonaldTrump (July 12, 2023, 6:33 a.m.)	FRE 401, 403, 404	Yes	No
PX-102	Tweet by @dinoredman (May 10, 2023 10:16 p.m.)	FRE 401, 403, 801, 802	No	No
PX-103	Email to ejean@askejean.com from Anonymous (May 22, 2023, 10:54 p.m.)	FRE 401, 403, 801, 802	No	No

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-104	Tweet @ejeancarroll by @JustTRUMPLICAN (May 31, 2023 12:32 p.m.)	FRE 401, 403, 801, 802	No	No
PX-105	Email to e.jean@askejean.com from marthamorgan1@comcast.net (June 8, 2023, 8:36 p.m.)	FRE 401, 403, 801, 802	No	No
PX-106	Tweet by @alex_pilled (June 28, 2023 8:28 a.m.)	FRE 401, 403, 801, 802	No	No
PX-107	Tweet by @DaveKnight1776 (June 28, 2023 9:10 a.m.)	FRE 401, 403, 801, 802	No	No
PX-108	Email to e.jean@askejean.com from NebraskaCornhusker@proton.me (June 28, 2023, 1:34 p.m.)	FRE 401, 403, 801, 802	No	No
PX-109	Tweet @ejeancarroll by @pgravel5 (June 28, 2023, 8:30 p.m.)	FRE 401, 403, 801, 802	No	No
PX-110	Tweet @ejeancarroll by @cbdUdE2 (June 29, 2023, 12:26 a.m.)	FRE 401, 403, 801, 802	No	No
PX-111	Tweet @ejeancarroll by @Michael50199969 (July 19, 2023, 6:11 p.m.)	FRE 401, 403, 801, 802	No	No
PX-112	Tweet @ejeancarroll by @TerryLandscaper (August 8, 2023, 11:07 a.m.)	FRE 401, 403, 801, 802	No	No
PX-113	Email to e.jean@askejean.com from bluetacit21@hotmail.com (Sept. 9, 2023, 1:38 p.m.)	FRE 401, 403, 801, 802	No	No
PX-114	Email to e.jean@askejean.com from bluetacit21@hotmail.com (Sept. 9, 2023, 1:42 p.m.)	FRE 401, 403, 801, 802	No	No

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Defendant's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
PX-115	Tweet @ejeancarroll by @Pat_Soyjack (September 14, 2023, 4:04 p.m.)	FRE 401, 403, 801, 802	No	No
PX-116	Tweet @ejeancarroll by @JohnTausche (September 14, 2023, 4:17 p.m.)	FRE 401, 403, 801, 802	No	No
PX-117	Tweet @ejeancarroll by @Stock_Sniper (September 14, 2023, 4:37 p.m.)	FRE 401, 403, 801, 802	No	No
PX-118	Tweet @ejeancarroll by @kenjgld (September 14, 2023, 4:57 p.m.)	FRE 401, 403, 801, 802	No	No
PX-119	Tweet @ejeancarroll by @gabriel58106 (September 14, 2023, 5:45 p.m.)	FRE 401, 403, 801, 802	No	No
PX-120	Tweet @ejeancarroll by @Joannas46255745 (September 14, 2023, 6:18 p.m.)	FRE 401, 403, 801, 802	No	No
PX-121	Tweet @ejeancarroll by @Beer30thirty (November 7, 2023, 9:57 p.m.)	FRE 401, 403, 801, 802	No	No

## **B. Defendant's Exhibits**

The following is a list of exhibits Defendant intends to offer in his case-in-chief:

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Plaintiff's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
DX-1	Transcript of the Deposition of Donald J. Trump dated October 19, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 602, 801, and 802.	Yes.	Yes.

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Plaintiff's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
DX-2	Video Recording of the Deposition of Donald J. Trump dated October 19, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 602, 801, and 802.	Yes.	Yes.
DX-3	Transcript of the Deposition of E. Jean Carroll dated October 14, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-4	Video Recording of the Deposition of E. Jean Carroll dated October 14, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-5	Transcript of the Deposition of E. Jean Carroll dated January 31, 2023	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-6	Video Recording of the Deposition of E. Jean Carroll dated October 14, 2022	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.

Exhibit No.	Document Description	Plaintiff's Objections	Stipulation to Authenticity	Stipulation to Admissibility
DX-7	Transcript of the Deposition of E. Jean Carroll dated January 31, 2023	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-8	Video Recording of the Deposition of E. Jean Carroll dated January 31, 2023	Depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-9	Transcript of the Deposition of Lisa Birnbach dated September 21, 2022	FRE 401; depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 602, 801, and 802.	Yes.	No.
DX-10	Rebuttal Expert Report <sup>1</sup>	ECF 223; FRE 401, 403, 702, 703, 801, and 802; FRCP 26(a)(2)(D)(i); <i>Daubert v. Merrell Dow Pharms., Inc.</i> , 509 U.S. 579, 113 S. Ct. 2786 (1993).	No.	No.

<sup>1</sup> Defendant reserves the right to identify his rebuttal expert and submit the expert's report and accompanying documentation as exhibits pending adjudication of the motion to substitute a new rebuttal expert filed by Defendant on November 2, 2023. ECF 221.



<b>Exhibit No.</b>	<b>Document Description</b>	<b>Plaintiff's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
DX-11	Text Communications between Lisa Birnbach and E. Jean Carroll dated June 22, 2019 (Defendant's Exhibit 1, Pltf. Deposition)	FRE 106, 401, 403, 801, and 802.	Yes.	No.
DX-12	Relevant Portions of Transcript of June 22, 2020 Interview between E Jean Carroll and Natasha Stoyoff (DX-BT)	FRE 106, 401, 403, 412, 801, and 802; <i>Carroll II</i> , Trial Tr. 518:3–534:19 (sustaining objection).	Yes.	No.
DX-13	CheerLEADING for Democracy with E. Jean Carroll; The MeidasTouch Podcast dated April 26, 2023 (DX-BU-T)	FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-14	December 5, 2019 The Maris Review, Episode 31-E. Jean Carroll (DX-BV-T)	FRE 106, 401, 403, 412, 801, and 802.	Yes.	No.
DX-15	Email from E. Jean Carroll to Tara Fitzpatrick dated July 18, 2019 (DX-CG)	FRE 106, 401, 403, 801, and 802.	Yes.	No.
DX-16	Email from E. Jean Carroll to Sarah Lazin dated August 1, 2019 (DX-CL)	FRE 106, 401, 403, 801, and 802.	Yes.	No.
DX-17	Email from E. Jean Carroll to Sarah Lazin dated July 31, 2019	FRE 106, 401, 403, 801, and 802.	Yes.	No.
DX-18	Email from E. Jean Carroll to Lisa Birnbach dated September 30, 2019 (DX-DH)	FRE 106, 401, 403, 801, and 802.	Yes.	No.

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Plaintiff's Objections</b>	<b>Stipulation to Authenticity</b>	<b>Stipulation to Admissibility</b>
DX-19	Transcript of the Deposition of Carol Martin dated October 18, 2022	FRE 401; depending on the portions to be designated, Plaintiff may object under FRE 106, 401, 403, 412, 602, 801, and 802.	Yes.	No.
DX-20	Transcript of Interview between Anderson Cooper and E. Jean Carroll dated June 24, 2019	FRE 106, 401, 403, 404, 412, 801, and 802.	Yes.	No.
DX-21	Video of Interview between Anderson Cooper and E Jean Carroll dated June 24, 2019	FRE 106, 401, 403, 404, 412, 801, and 802.	Yes.	No.

#### **V. GENERAL PROVISIONS, STIPULATIONS, AND OBJECTIONS WITH RESPECT TO EXHIBITS**

Any objections not set forth herein will be considered waived absent good cause shown.

See chart above in Section IV for stipulations and objections with respect to exhibits.

#### **VI. PLAINTIFF'S WITNESS LIST**

The witnesses listed below may be called at trial. No witness not identified herein shall be permitted to testify in either party's case-in-chief absent good cause shown.

Plaintiff may call at trial the following persons:

- E. Jean Carroll
- Roberta Myers
- Natasha Stoyloff
- Jessica Leeds
- Prof. Ashlee Humphreys

## **VII. DEFENDANT’S WITNESS LIST**

The witnesses listed below may be called at trial. No witness not identified herein shall be permitted to testify in either party’s case-in-chief absent good cause shown.

Excepting rebuttal or impeachment, Defendant may call at trial the following:

- E. Jean Carroll
- Donald J. Trump
- Rebuttal Expert<sup>2</sup>
- David Haskell
- Sarah Lazin
- Lisa Birnbach
- Carol Martin

## **VIII. RELIEF SOUGHT**

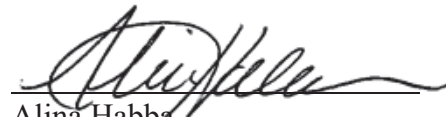
Carroll seeks compensatory and punitive damages for the harms caused by Trump’s defamatory statements. Carroll also seeks pre- and post-judgment interest, costs, and such other and further relief as this Court may deem just and proper.

Defendant respectfully demands judgment dismissing this action in its entirety together with costs, disbursements, and all other relief this Court deems just and proper.

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<sup>2</sup> To be identified pending adjudication of the letter motion filed by Defendant on November 2, 2023.

Dated: November 10, 2023



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Respectfully submitted,



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*Counsel for Plaintiff E. Jean Carroll*

IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2023.

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The Hon. Lewis A. Kaplan  
United States District Judge